

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

UNITED STATES OF AMERICA

v.

FRANK NWABARDI

§
§
§
§
§
§

CRIMINAL NO. H-03-230-02

**ORDER DENYING MOTION FOR
RELEASE PENDING APPEAL**


Defendant Frank Nwabardi was convicted on March 3, 2004 of three counts of conspiracy and aiding and abetting interstate transportation of motor vehicles in violation of 18 U.S.C. §§ 371, 2312 & 2. On January 28, 2005, Defendant was sentenced to 42 months custody with the Bureau of Prisons.¹ See Doc. # 466. On March 25, 2005, the Court issued an Order to Surrender directing that Defendant voluntarily surrender to the Federal Correctional Institution at Beaumont on April 18, 2005. On April 14, 2005, Defendant filed a motion for release pending appeal [Doc. # 479] (“Defendant’s Motion”). In essence, Defendant seeks a stay of the Order of Surrender pending appeal. Defendant contends that there are issues of sufficiency of the evidence, which if successful, would result in reversal of the convictions and avoidance by Defendant of the need to serve any sentence.

¹ Sentencing was delayed because the Court granted Defendant’s request for appointment of new counsel for purposes of sentencing and to await the United States Supreme Court’s ruling in *United States v. Booker*.

The Court has considered Defendant's Motion and is not persuaded that this case presents grounds for the relief sought. Defendant has not satisfied his burden to identify "substantial questions of law or fact" for appeal under the Bail Reform Act of 1984, 18 U.S.C. § 3143(b). There is no indication that the Government agrees to Defendant's Motion, and the Assistant United States Attorney who tried this case reported by telephone to the Court's case manager that he opposes the relief Defendant seeks in the Motion. Accordingly, there is no legal basis for granting the relief Defendant seeks and he must surrender as directed. It is therefore

ORDERED that Defendant's Motion for Release Pending Appeal [Doc. # 479] is **DENIED**.

SIGNED at Houston, Texas, this **18th** day of **April, 2005**.


Nancy F. Atlas
United States District Judge